

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LESLIE N. DAVIS,

Petitioner,

vs.

BILL LOCKYER, et al.,

Respondents.

CASE NO. 06cv2251-LAB (POR)

**ORDER DENYING REQUEST
FOR APPOINTMENT OF
COUNSEL**

On September 29, 2006, Petitioner Davis, proceeding *pro se*, filed a document styled "Motion for Appointment of Counsel." The Court construes *pro se* habeas filings liberally. *Allen v. Calderon*, 408 F.3d 1150, 1153 (9th Cir. 2005). Because this motion mentioned habeas corpus and Petitioner's request to be released from custody, the Court construed this as a petition for a writ of habeas corpus. Petitioner's motion for leave to proceed *in forma pauperis* was granted on November 21, 2006.

"In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

The basis for the petition appears to be Petitioner's allegedly being held in custody for over 14 months following an immigration judge's order of removal, which he believes is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Beyond this, Petitioner provides

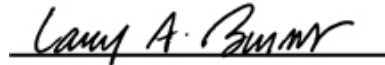
1 no details. Instead, Petitioner argues that the complexity of the case and the likelihood that
2 discovery will be needed makes appointment of counsel necessary.

3 Petitioner provides no details regarding why the case should be considered complex
4 or why discovery would be necessary. Petitioner is clearly aware of and able to cite 8 U.S.C.
5 § 1231 and other relevant authority. Furthermore, except as noted, Petitioner provides no
6 details regarding the facts giving rise to the petition. The Court therefore cannot conclude
7 that the petition is likely to succeed on the merits.

8 For these reasons, the Court holds that Petitioner has not shown why appointment
9 of counsel is appropriate in this case. Petitioner's request for appointment of counsel is
10 therefore **DENIED**.

11
12 **IT IS SO ORDERED.**

13 DATED: January 5, 2007

14 

15 **HONORABLE LARRY ALAN BURNS**
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28